LANDLORD AND TENANT—FIRE ESCAPES—RESTRICTIVE COVENANT—REPAIRS. —Defendant was lessee of plaintiff's four-story building, using the same for business purposes. The lease contained a covenant that the lessee should keep the premises in good order and repair, free from any nuisance or filth on or adjacent thereto, and should use the same in compliance with local ordinances and state laws. The statute required the owner, proprietor, lessee, or keeper of a building of three or more stories, used for business purposes, to provide fire escapes, attached to the exterior. Criminal prosecution was instituted against both owner and lessee, to escape which the owner constructed the fire escape, and brought the present suit against the tenant for the cost of the same. *Held,* the covenant that the lessee should keep the premises in good order and repair, free from any nuisance or filth, is restrictive, governing the use of the premises only, and does not impose on the tenant the duty of erecting such fire escape on the outside of the leased building; such fire escape ranks not as a repair but as a permanent improvement, such as the owner is required to make. *Zeibig* v. *Pfeiffer Chemical Co.* (1910) — Mo. App. —, 131 S. W. 131.

By the common law, the burden of repairs on demised premises rests upon the tenant. Unless he covenants so to do, the landlord is not required to construct appurtenances, nor repair the premises after placing the tenant in possession. 1 TAYLOR, LANDLORD AND TENANT, Ed. 9, §§ 327, 328; *Mumford* v. *Brown,* 6 Cow. 475; *Post* v. *Vetter,* 2 E. D. Smith, 248; *Witty* v. *Matthews,* 52 N. Y. 512; *Benjamin* v. *Heeney,* 51 Ill. 492; *Ward* v. *Fagin,* 101 Mo. 669, 14 S. W. 738, 10 L. R. A. 147, 20 Am. St. Rep. 650. But where, as in the principal case, a statute enjoins the duty of placing fire escapes on buildings, without specifying whether landlord or tenant shall construct the same, the general rule just stated does not apply. Fire escapes would under such a statute be an exception, coming under the head of permanent improvements or fixtures, which the owner must construct. To the general rule that the landlord is under no obligation to repair except by force of an express covenant, there is one exception. If a statute makes it the duty of a landlord to repair in any particular, such repairs must be made by him, in the absence of an agreement by the tenant to make them. 1 TAYLOR, LANDLORD AND TENANT, Ed. 9, § 328. A fire escape would not be within the range of ordinary repairs which the tenant, in the absence of an agreement to the contrary, is required to make. *McAlpin* v. *Powell,* 70 N. Y. 126, 26 Am. Rep. 555; 2 WOOD, LANDLORD AND TENANT, Ed. 2, § 381. The mere fact that the tenant leases the building for business purposes with knowledge that the fire escape required by law had not been constructed will not imply a covenant to the effect that he should assume the burden. 1 TAYLOR, LANDLORD AND TENANT, Ed. 9, § 252.

MARRIAGE—PRESUMPTION OF VALIDITY—WHAT LAW GOVERNS?—A man and woman, both domiciled in Minnesota, went to Hamburg, Germany, where they were "married" by a person whom they supposed to be, but who was not in fact, authorized by the German law, to perform the ceremony, at least between German subjects. Consummation followed; the couple then

went on to Vienna, Austria, where they took up a residence. They were regarded by relatives and acquaintances as married; and the "husband" afterward, in official documents, referred to himself as a married man. After his death, in Vienna, his father petitioned to be appointed administrator of his estate. The "widow" contested. A stipulated translation of the relevant sections of the German Code was filed. The translation was ambiguous: under one construction the marriage was void; but under the other it was to be governed by Minnesota law (the law of the domicile), and would be valid as a common law marriage. (R. S. Minn. 1905, § 3566). *Held,* that as the German law, as proved, did not clearly show that the marriage was void where celebrated, the court will presume that the marriage was valid. *In re Lando's Estate* (1910), — Minn. —, 127 N. W. 1125.

The legality of a marriage must be determined by the law of the place in which it is performed. *Ollschlager's Estate* v. *Widmer* (1909), — Ore. —, 105 Pac. 717; *Reifschneider* v. *Reifschneider,* 241 Ill. 92, 89 N. E. 255. Unless contrary to the well defined public policy of forum, *Johnson* v. *Johnson* (1910), — Wash. —, 106 Pac. 500; *Lanham* v. *Lanham,* 136 Wis. 360, 117 N. W. 787, 17 L. R. A. (N. S.) 804. The presumption of validity of a marriage is one of the strongest known to the law. *Maier* v. *Brock, 222* Mo. 74, 120 S. W. 1167. A foreign statute must be proved like any other question of fact. *Electric Welding Co.* v. *Prince,* 200 Mass. 386, 86 N. E. 947. The Minnesota statute above cited is unusual. It provides that no marriage solemnized before a person professing to have authority to perform it shall be void for lack thereof, if consummated in the full belief by the parties, *or either of them,* that they have been legally married. The opinion illustrates the ingenuity which courts employ in upholding marriages of doubtful validity.

MASTER AND SERVANT—MASTER'S LIABILITY FOR INJURY TO THIRD PERSON CAUSED BY SERVANT.—Defendant's servants were in the habit of maliciously throwing missiles from defendant's factory onto the adjoining premises leased by plaintiff's husband. The master had been notified but the precautions taken to stop the practice were ineffective. Plaintiff was injured by one of said missiles. *Held,* that the master is liable; but the judges differed as to whether the ground of his liability was negligence or nuisance. *Hogle* v. *H. H. Franklin Mfg. Co.* (1910), — N. Y. —, 92 N. E. 794.

On facts like these, if the judgment is to square up with the fundamental equities of the case, it must be in favor of the plaintiff, but on what ground it should be placed is difficult of decision. There is no question that the facts constitute a nuisance, and that a recovery should be allowed on that ground, if this plaintiff is a proper party to maintain the action. The courts differ on whether the plaintiff must have an estate or a legal interest in adjoining premises, in order to maintain such an action when the nuisance does not operate to injure property. (For the two views, see *Ellis* v. *Kansas City Ry.,* 63 Mo. 131, and *Fort Worth etc. Ry.* v. *Glenn,* 97 Tex. 586). The view allowing the plaintiff to sue seems to be the better on principle. *Shipley* v. *Fifty Associations,* 106 Mass. 194. To place the decision on the